OLR Bill Analysis

sSB 881 (File 113, as amended by Senate "A")*

AN ACT CONCERNING THE POWERS OF THE STATE TREASURER, DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN, AND THE MEMBERSHIP OF THE TEACHERS' RETIREMENT BOARD AND THE CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION.

SUMMARY:

This bill makes various changes concerning the Office of the State Treasurer, including her personnel appointments, appointments to the Investment Advisory Council (IAC), and investment policies in companies doing business in Iran or Sudan.

Generally, the bill:

1. authorizes the state treasurer to appoint officers and other investment-related personnel with the approval of the Department of Administrative Services (DAS) and the Office of Policy and Management (OPM);

2. eliminates a requirement that the IAC provide advice and consent for all investment-related appointments the treasurer makes;

3. requires the treasurer to redeem obligations no later than two years after issuance and the governor to provide notice to certain legislative committees on the amounts he authorizes;

4. makes the treasurer an ex-officio, non-voting member of the State Employees Retirement Commission;

5. allows retired state employees who are physicians to serve on the Medical Examining Board;

6. requires the treasurer to divest existing, and halt further, investments in any security or instrument issued by Iran;

7. allows her to divest existing, or decide against further or future, investments of state funds in companies doing business in Iran; and

8. expands a similar law concerning divestment from companies doing business in Sudan.

The bill also eliminates an obsolete provision concerning American hostages in Iran.

*Senate Amendment "A" specifies that the treasurer may appoint personnel to other divisions in her office; requires DAS and OPM approval for these appointments; eliminates a provision on the Teachers' Retirement Board membership; makes the treasurer a non-voting, rather than a voting, ex-officio member of the State Employees Retirement Commission; and adds the provisions on the treasurer's borrowing authority and the Medical Examining Board.

EFFECTIVE DATE: Upon passage, except the provisions concerning (1) the Teachers' Retirement Board and the State Employees Retirement Commission are effective July 1, 2011 and (2) the treasurer's authority to appoint personnel are effective October 1, 2011.

§§ 1-2 & 6—STATE TREASURER

Personnel

By law, the treasurer can appoint (1) a deputy; (2) an assistant treasurer for debt management; (3) a chief investment officer, deputy chief investment officer, principal investment officers, investment officers, and other personnel for the Connecticut retirement pension and trust funds; and (4) agents to manage state property.

In addition to the treasurer's current appointments, the bill authorizes her to appoint officers and other investment-related personnel, with the approval of the DAS commissioner and OPM secretary, to any division in her office. Under current law and the bill, appointees serve at the pleasure of the treasurer.

The bill eliminates the requirement that the IAC approve the treasurer's appointees for principal investment officers, investment officers, and other personnel to assist the chief investment officer. It maintains the requirement for the chief investment officer and deputy chief investment officer appointees.

Temporary Borrowing Authority

The law authorizes the treasurer to borrow funds and issue obligations with the governor's approval. The bill requires the treasurer to redeem the obligations whenever, in her opinion, there are funds available or no later than two years after the issuance date, whichever is earlier. Current law does not impose the two-year deadline.

The bill requires the governor to (1) specify the amount he approves for temporary borrowing and (2) at the same time, provide notice of the approval to the chairpersons and ranking members of the Finance, Revenue, and Bonding and Appropriations committees.

§ 5 — CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION

The bill increases, from six to seven, the size of the State Employees Retirement Commission by adding the treasurer, or her designee, as an ex-officio, non-voting member. The commission administers the State Employees Retirement System, the Municipal Employees Retirement System, and all other state retirement and pension plans, except the Teachers' Retirement System.

§ 7— MEDICAL EXAMINING BOARD

The bill allows retired, not just current, state employees to be members of the medical examining board. By law, the medical examining board consists of seven doctors whom the governor appoints. The board determines whether applicants are entitled to state disability retirement.

§§ 3 & 4 — DIVESTMENT FROM COMPANIES DOING BUSINESS IN IRAN OR SUDAN

With respect to Iran, current law requires the state treasurer to review the state's major investment policies to ensure that state funds are not invested in corporations engaged in business in Iran that could be considered contrary to U.S. national interests. With respect to Sudan, existing law (1) allows the state treasurer to divest, or decide against further or future investments of, state funds in any company doing business in Sudan and (2) requires her to divest and halt further investments in any security or instrument issued by Sudan.

The bill makes the law on Iran parallel to the law on Sudan. It requires the treasurer to review major investment holdings, instead of policies, for purposes of divesting and halting further investments in any security or instrument issued by Iran. It allows her to divest, or decide against further or future investments of, state funds in any company engaged in commerce in Iran, including maintaining equipment, facilities, personnel, or other business or commerce apparatus there including leasing or owning real or personal property or engaging in any business activity with its government (i.e., companies doing business in Iran).

A "company" is any for-profit corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or other entity or business association, including its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates.

Iran Divestment

The bill requires the treasurer to (1) determine the extent of the state's investment in companies doing business in Iran and (2) encourage such companies in which the state is invested to act responsibly and not take actions that promote or otherwise enable Iran's development of nuclear weapons or terrorism. The treasurer must offer the encouragement whenever feasible and in a manner consistent with her fiduciary duties. The treasurer may determine the companies doing business in Iran from the U.S. Treasury's Office of

Foreign Assets Control or from her own review.

The treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in Iran after various considerations. Among other things, she must consider:

1. revenue the company paid directly to the Iranian government;
2. whether the company demonstrates complicity with an Iranian organization that the U.S. government identifies as terrorist;
3. whether the company knowingly obstructs lawful inquiries into its operations and investments in Iran;
4. whether the company attempts to circumvent any applicable U.S. sanctions;
5. the extent of any humanitarian activities the company undertakes in Iran;
6. whether the federal government authorizes the company to do business in Iran; and
7. any other factor the treasurer deems prudent.

If the company's business in Iran involves (1) oil-related activities, (2) mineral extraction activities, (3) investments that directly and significantly contribute to the development of Iran's petroleum resources, or (4) any other activity on which the U.S. government has imposed economic sanctions, the treasurer must consider if its transactions involve (1) contracts with, or the provision of supplies or services to, the Iranian government; (2) companies in which the Iranian government has any direct or indirect equity share; (3) consortia or projects commissioned by the Iranian government; or (4) companies involved in consortia or projects commissioned by the Iranian government.

If the treasurer decides to divest the state's funds, she must give the company notice that the state will divest as long as it continues to do business in Iran.

As used above, "mineral extraction activities" are activities such as exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, silver, tungsten, uranium, and zinc; as well as facilitating these activities, including providing supplies or services in their support. "Oil-related activities" include activities such as (1) owning rights to oil blocks (areas with oil fields); (2) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; (3) constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure; and (4) facilitating these activities, including providing supplies and services to support them. Oil-related activities do not include selling retail gasoline and related consumer products. "Petroleum resources" are petroleum, petroleum byproducts, or natural gas.

At least once per fiscal year the treasurer must report to the IAC on her actions regarding companies doing business in Iran.

These provisions have no effect if (1) the U.S. State Department removes Iran from its State Sponsors of Terrorism List (see BACKGROUND) and (2) the U.S. president certifies to the appropriate Congressional committee that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

Sudan Divestment

The bill makes changes to definitions under a parallel law concerning divestment of state funds from companies doing business in Sudan. In doing so, it expands "doing business in Sudan" to mean commerce in any form, including leasing property, and "companies" to include an entity, its wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, and affiliates that exist to make a profit.

BACKGROUND

State Sponsors of Terrorism

Countries that the U.S. Secretary of State determines have repeatedly provided support for acts of international terrorism are designated "state sponsors of terrorism." Such a designation results in four main sanctions: (1) restrictions on U.S. foreign assistance; (2) a ban on defense exports and sales; (3) certain controls over exports of dual-use items; and (4) miscellaneous financial and other restrictions. In addition, other sanctions penalize persons and countries engaging in certain trade with state sponsors. There are currently four designated countries: Cuba, Iran, Sudan, and Syria.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea	15	Nay	0	(03/07/2011)

Human Services Committee

Joint Favorable

Yea	12	Nay	2	(04/07/2011)